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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,322	03/16/2004	Billy H. Brenton	BRER.01US01	3739
27479	7590	06/07/2006	EXAMINER	
COCHRAN FREUND & YOUNG LLC 2026 CARIBOU DR SUITE 200 FORT COLLINS, CO 80525			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,322

Applicant(s)

BRENTON, BILLY H.

Examiner

Phong H. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-14, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: <u>20051202</u> |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the pre-Appeal brief filed on 03/06/2006, PROSECUTION IS
HEREBY REOPENED. New grounds of rejections are set forth below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that
form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 8, 10, 11, 13 and 16 are rejected under 35 U.S.C. 102(b) as being
anticipated by Gauvry (4,742,617).

Gauvry teaches a scissors comprising a first shaft, a second shaft, a flexible pin
36, an adjustable thumb ringlet 30 and a second pin 22. See Fig. 1-5.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Gauvry (4,742,617).

16 Gauvry shows the claimed invention except it is silent about the material^{of} the pin.

To select a well known material such as plastic for the pin would have been obvious to one having ordinary skill in the art, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

6. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauvry (4,742,617) in view of Brenton et al. (5,125,159), hereinafter Patent '159.

Gauvry shows the claimed invention except it lacks a means for adjusting the force between opposing cutting portions of the scissors.

Patent '159 shows a pair of shears comprising a means 30 for adjusting the tension of the shear blades. See Fig. 1.

It would have been obvious to one skilled in the art to further modify Gauvry by providing the scissors with a force adjusting means to facilitate adjusting the ride of the blades as taught by Brenton '159.

7. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauvry (4,742,617) in view of Brenton et al. (5,469,624), hereinafter Brenton.

Gauvry shows the claimed invention except it lacks a finger stabilizer.

Brenton shows a pair of scissors comprising a finger stabilizer disposed in the vicinity of a finger ringlet (26, see Fig. 1a).

It would have been obvious to one skilled in the art to modify Gauvry by providing the finger ringlet with a finger stabilizer for supporting a user's finger when in use as taught by Brenton.

8. Claims 1, 3, 5, 8, 10, 11, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen (590,330) in view of Brenton et al. (5,469,624), hereinafter Brenton.

Nolen teaches a scissors comprising a first shaft, a second shaft, a pin (a3), an adjustable thumb ringlet 30 and a second pin 22. See Figs. 1-6.

Nolen does not teach the pin (a3) being flexible. Brenton teaches a flexible pin 36 so that a thumb ringlet 18 can be replaced easily. Therefore, it would have been obvious to one skilled in the art to incorporate the flexible pin of Brenton into the pin of Nolen for easily changing the thumb ringlet of Nolen.

Conclusion


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

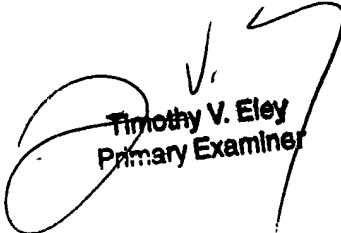
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: 

May 26, 2006


Timothy V. Eley
Primary Examiner